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DAVIS & SARBINOFF  
ATTORNEYS & COUNSELLORS AT LAW

November 14, 2006

VIA PRIORITY MAIL

Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination & Legal Administration  
Office of General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

**RE: MUR# 5845 Citizens for Truth**

Dear Mr. Jordan:

I am counsel for the above named organization and have been asked to respond to your inquiry. Citizens for Truth received your inquiry on Tuesday, November 7, 2006. I have reviewed the complaint of the Indiana Democratic Party ("IDP") and, I must admit, find it hard to respond to such a litany of fabrications and fantasy.

For the record, Citizens for Truth and its President, Herman Bernitt, completely deny the claims contained in the complaint, and point out the incredible nature of the allegations. As one of the few grassroots IRC §527 organizations active in Indiana's Ninth district, Mr. Bernitt knows and has interacted with many people, of both principal political parties, who are active in politics in Indiana. Citizens for Truth does not deny that one of its primary endeavors has been to shine light on the record of Congressman Baron Hill. Though, in the 2004 election cycle, Citizens for Truth raised and spent only around \$16,000, Mr. Hill has complained bitterly and loudly that its small billboard buy cost him the election. It's preposterous to allege that the Sodrel campaign, which raised and spent several millions of dollars would coordinate with such a shoestring startup with negligible resources.

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COUNSEL

The contention that an overlap of contributors in the 2004 cycle proves coordination is incredible on its face. Just as the contributors to MoveOn.org had a significant overlap with the Kerry campaign, it is reasonable to suppose that those who favored the Sodrel effort would also support Citizens for Truth. In fact, American Family Voices, an IRC §527 which ran an anti-Sodrel automated phone effort (illegal under Indiana law), earlier this year in the Ninth district, shared 50% of its contributors with the Hill campaign according to its 2004 cycle reports, and Hill's campaign committee. Is Baron Hill admitting to coordination with American Family Voices?

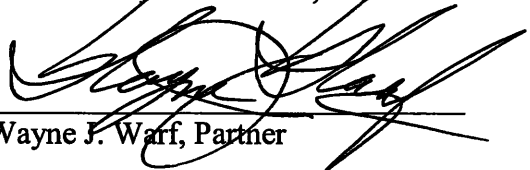
It is also preposterous for IDP Chairman Parker, in a sworn statement, to assert that he knows the content of e-mails or cell phone records. If he had such evidence then it should have been submitted with his complaint. As for the website, it was changed BEFORE the IDP issued its press release. Even if that were not the case, there is nothing in the website, before or after, to support, in any way, the allegations made by the IDP. Finally, this matter is the subject of a defamation suit filed by Mr. Bernitt in the Marion County Superior Court (enclosed). All of the IDP's allegations are a tawdry attempt to win an election by smear tactics because they have been unable to refute the revelations provided to the public by Citizens for Truth. The IDP made sure to try to heavily bait the press into publishing their assertions.

Other than the foregoing, it is, obviously, impossible to prove a negative. My client trusts that the Commission will have the insight to see the IDP contentions for what they are, baseless and groundless. Please direct any other correspondence on this matter to me at the address provided.

Thank you.

Respectfully submitted,

DAVIS & SARBINOFF, LLP

  
Wayne J. Warf, Partner

WJW/rab  
CC:

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STATE OF INDIANA       )  
                                  ) SS:  
COUNTY OF MARION     )

IN THE MARION SUPERIOR COURT

CAUSE NO. \_\_\_\_\_

HERMAN BERNITT,                                )  
                                                      )  
                                                      ) Plaintiff,  
                                                      )  
                                                      ) v.  
                                                      )  
                                                      )  
INDIANA DEMOCRATIC PARTY,                )  
JENNIFER WAGNER,                            )  
DANIEL J. PARKER,                            )  
COMMITTEE TO BRING BACK BARON,)  
MICHAEL LEONARD,                            )  
                                                      ) Defendants.

**COMPLAINT**  
**AND JURY DEMAND**

COMES NOW Plaintiff, Herman Bernitt ("Bernitt"), by counsel, for his claims for relief against Defendants and states as follows:

1. Defendant Indiana Democratic Party ("Democrats") is a political party operating within the State of Indiana with its principal offices in Indianapolis, Indiana.
2. On information and belief, Defendant Jennifer Wagner ("Wagner") is an individual residing in Indianapolis, Indiana.
3. On information and belief, Defendant Daniel J. Parker ("Parker") is an individual residing in Indianapolis, Indiana.
4. Defendant Committee to Bring Back Baron ("Baron") is a political campaign with its principal offices in Seymour, Indiana.
5. On information and belief, Defendant Michael Leonard ("Leonard") is an individual residing in Bloomington, Indiana.

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6. Plaintiff Herman Bernitt ("Bernitt") is an individual residing in Bloomington, Indiana and is the president of "Citizens for Truth," a political group registered with the I.R.S. pursuant to I.R.C §527.

7. All events alleged herein took place in the State of Indiana.

### **COUNT I**

#### **DEFAMATION PER SE**

8. All of the foregoing allegations are herein incorporated.

9. On or around September 28, 2006, Defendants Democrats, Wagner, and Parker, defamed Bernitt by accusing him of conspiracy to violate the Federal Election Code and of criminal violations of the law of this State with regard to false reporting.

10. Defendant Wagner repeated and expanded her allegations against Bernitt on WFHB radio in Bloomington.

11. Defendant Parker repeated the allegations to various media.

12. Defendant Wagner repeated the allegations to various media, on "weblogs," and on Internet web pages.

13. Defendant Leonard in a newspaper column on September 19, 2006 referred to Bernitt as "Dirty Bud Bernitt and his Nixonesque plumbers," a reference to the conspirators who burglarized DNC offices in the Watergate complex.

17. On October 17, 2006 in a column by Leonard, Defendant Leonard repeated the defamation by Defendants Democrats, Wagner and Parker and made his own new allegations of conspiracy to violate Federal Election Laws.

18. Defendant Baron on or around October 22, 2006 launched a webpage, shamesonsodrel.com, that republished the allegations of other Defendants and made additional allegations of conspiracy to violate Federal Election Laws against Bernitt and others.

19. All of the allegations of crimes and misconduct made or published by Defendants constitute Defamation *Per Se*.

20. Defendants' actions in making these false statements were intentional and malicious, and they knew, or should have known their statements were false.

## **COUNT II**

### **DEFAMATION PER QUOD**

21. All of the foregoing allegations are herein incorporated.

22. Any of Defendants' statements concerning the Plaintiff that do not constitute Defamation *Per Se* constitute Defamation *Per Quod*.

23. Defendants' statements concerning Plaintiff at all times material were defamatory.

24. Defendants' statements regarding Plaintiff were false and malicious and intended to lower the Plaintiff in the community's esteem and deter others from dealing or associating with him.

25. Plaintiff has suffered reputational and pecuniary damage, loss of business, and other harm due to the intentional and unwarranted actions of the Defendants.

### **JURY DEMAND**

26. A Jury Trial is demanded

WHEREFORE, for the foregoing reasons, Plaintiff prays from this Court for judgment against Defendants and for damages, attorney fees and costs, and, in addition, for damages against the

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Defendants for their intentional conduct sufficient to punish them and to deter others from similar conduct, and for all other relief just and proper in the premises.

Respectfully Submitted,

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Direct Dial: (317)569-1205  
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*Attorney for Plaintiff.*



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Washington, DC 20463

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STATEMENT OF DESIGNATION OF COUNSEL  
Please use one form for each Respondent/Client  
FAX (202) 219-3923

MUR 5845

MUR # 5845

NAME OF COUNSEL: Wayne WARE

FIRM: DAVIS & SARBINOFF, LLP

ADDRESS: 9000 KEYSTONE CROSSING

Suite 660 INDIANAPOLIS IN 46240

TELEPHONE- OFFICE (317) 569-1205

FAX (317) 569-1293

The above-named individual and/or firm is hereby designated as my  
counsel and is authorized to receive any notifications and other communications  
from the Commission and to act on my behalf before the Commission

11-9-06 Hermano Bernitt PRESIDENT  
Date Respondent/Client Signature Title

RESPONDENT/CLIENT: Citizens for Truth  
(Please Print)

MAILING

ADDRESS: Bloomington, IN 47404

TELEPHONE- HOME

BUSINESS 812 333-6739

Information is being sought as part of an investigation being conducted by the Federal Election  
Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section  
prohibits making public any investigation conducted by the Federal Election Commission without  
the express written consent of the person under investigation.

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